

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON MILITARY AND  
VETERANS' AFFAIRS**

March 4, 2004  
3:04 p.m.

**MEMBERS PRESENT**

Representative Nick Stepovich, Chair  
Representative Beverly Masek, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Bruce Weyhrauch  
Representative Sharon Cissna  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 440

"An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 440

SHORT TITLE: PIONEERS' HOMES/VETERANS' HOMES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/05/04	(H)	READ THE FIRST TIME - REFERRALS
02/05/04	(H)	MLV, HES, FIN
03/04/04	(H)	MLV AT 3:00 PM CAPITOL 120

**WITNESS REGISTER**

DENNIS DeWITT, Special Staff Assistant  
Office of the Governor  
Juneau, Alaska

POSITION STATEMENT: Reviewed the changes encompassed in the proposed CSHB 440, Version D.

JOHN VOWEL, Director  
Division of Longevity Programs  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 440, answered questions.

**ACTION NARRATIVE**

**TAPE 04-1, SIDE A**

Number 0001

**CHAIR NICK STEPOVICH** called the House Special Committee on Military and Veterans' Affairs meeting to order at 3:04 p.m. Representatives Stepovich, Masek, Weyhrauch, Dahlstrom, Cissna, and Gruenberg were present at the call to order. Representatives Lynn arrived as the meeting was in progress.

HB 440-PIONEERS' HOMES/VETERANS' HOMES

[Not on tape, but reconstructed from the committee secretary's log notes, was the following:

CHAIR STEPOVICH announced that the only order of business would be HOUSE BILL NO. 440, "An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

Number 0015

REPRESENTATIVE MASEK moved to adopt CSHB 440, Version 23-GH2085\D, Mischel, 3/1/04, as the working document. There being no objection, Version D was before the committee.]

[The recording begins at this point.]

CHAIR STEPOVICH reviewed what was included in the committee packet for HB 440.

Number 0043

DENNIS DeWITT, Special Staff Assistant, Office of the Governor, turned attention to page 6, line 30, of the original draft. There was concern with the language "The state may maintain facilities known as the Alaska Pioneers' Home", which was stylistic drafting that shouldn't have been allowed. Therefore, Version D changes the "may" to "shall" so that there is a specific obligation to continue the pioneers' homes, which was the intent. Furthermore, it has been the intent since early on to only convert the Palmer Pioneers' Home into a veterans' home, which is specified in the language on page 7, lines 2-4, of Version D. He acknowledged some have expressed concern that there might be several conversions, and noted that [the governor] agreed with those folks that any other conversions should result in a policy discussion before the legislature. Mr. DeWitt highlighted that on page 8, line 7, of Version D the word "sale" is removed because there was never any intention to sale the homes. Should anyone seek the sale of the homes, it should result in a policy debate before the legislature. The language on page 9, lines 18, of the original version referred to "veterans' benefits paid under 38 U.S.C. 1110". The benefits under 38 U.S.C. 1110 are for someone living in a veterans' or pioneers' home. However, veterans' groups recommended that language be removed so that the funds would be available for providing care for the individuals. After talking with the Veterans Administration, it was determined those benefits would be used for living expenses.

Number 0385

REPRESENTATIVE GRUENBERG surmised then that originally the benefits paid under 38 U.S.C. 1110 were going to be disregarded, but in Version D those benefits will be included. He asked if that change will cause any veterans hardship.

MR. DeWITT answered that he didn't believe so. He highlighted that the change was brought forth by the veteran community.

REPRESENTATIVE GRUENBERG inquired as to how much this benefit would be monthly.

Number 0442

JOHN VOWEL, Director, Division of Longevity Programs, Department of Health and Social Services (DHSS), noted that presently seven residents in the pioneers' home system are veterans. Although the amount varies for each veteran, he estimated that the average monthly benefit would amount to approximately \$815.

REPRESENTATIVE WEYHRAUCH asked if veterans in Alaska receive additional funds for the cost of living in Alaska.

MR. DeWITT replied no. He then continued with his overview of Version D. In the original version a definition of "veteran" that has been used in other areas of Alaska Statute. However, after discussion with veterans groups and the U.S. Veterans Administration (Veterans Administration), the only criteria for access to a state veterans' home under the Veterans Administration requirement is that the veteran be discharged on a basis other than a dishonorable discharge. The initial definition included honorable discharge and a minimum of 180 days of service. However, it was pointed out that injured military personnel in the military a shorter period than 180 days would be precluded. Therefore, the definition in Version D on page 12, lines 21-23, reflects the Veterans Administration criteria.

CHAIR STEPOVICH asked if the veterans are aware of the aforementioned change.

MR. DeWITT said he believes so.

CHAIR STEPOVICH emphasized that he wanted to be sure that the veterans and the pioneers are all on board with this matter.

Number 0636

MR. DeWITT reiterated that he believes the change is responsive to the concern [the veterans expressed] at the last hearing. Mr. DeWitt continued his review of Version D by directing attention to Section 25. He explained that the original version [repealed] AS 47.55.035, which deals with 30-year residents being able to go outside the state while remaining on the wait list for the pioneers' homes. He noted that the aforementioned hasn't been challenged. If it were challenged, it would likely be found unconstitutional. Therefore, the intent was to address it. However, the pioneers raised the issue that there are instances in which individuals may need to go outside the state. If the 30-year criteria was eliminated, individuals could [live in the state] for one year, be placed on the waiting list, and be allowed to leave the state and remain on the waiting list. Mr. DeWitt said that [the governor] doesn't have a good solution to the problem, and therefore he recommended that the provision not be repealed but rather see how long it lasts. Therefore, the language repealing it wasn't included in Version D.

MR. DeWITT noted that Version D includes a repeal of AS 44.29.400, which was the first attempt to obtain a veterans' home in Alaska. He explained that AS 44.29.400 specifies that the veterans' home should be a stand-alone facility and fully self-supporting. The problem with the aforementioned is that the economics to make a veterans' home fully self-supporting don't work. Furthermore, it's in conflict with the intent of HB 440. Mr. DeWitt explained that AS 44.29.400 specifies that the veterans' home would have to fully fund itself, without using any general funds. He posed a situation of a home that housed 10 individuals that were indigent and 10 that were not with the cost of care in the home at \$2,000 a month. In such a situation, half of the individuals in the home would be there for free while the other half would have to pay \$4,000 a month. Without a subsidy to address those who are indigent, it's unlikely to impossible to have people come into a veterans' home and pay twice the cost of care for themselves in order to cover the cost of the indigent. Mr. DeWitt noted that he was surprised that AS 44.29.400 was still in statute.

MR. DeWITT continued with his review of Section 25. He pointed out that it deletes the pilot project that would have allowed work toward getting all of the homes certified for providing veterans' home services. However, the pilot project didn't work and wasn't acceptable to the Veterans Administration. Because there is a process in HB 440 that will work, those sections of law are being removed.

Number 0963

REPRESENTATIVE MASEK turned attention to page 6, line 30, where the language was changed from "may" to "shall". She asked if that language change should also be made on page 7, line 3.

MR. DeWITT said that the use of "may" [on page 7, lines 1-3] is the reason it was used on page 6, line 30. Mr. DeWitt informed the committee that he believes, after working with the Veterans Administration, that [the state] is close to a deal. He estimated that about 5 percent of the deal is left to complete and it may be left even after the legislature adjourns. Mr. DeWitt said that the state wouldn't want to be in a position of being mandated to convert the Palmer Pioneers' Home if it couldn't be certified. Therefore, this is permissive legislation to move forward [on certification], which led the drafter to draft that entire section in a permissive voice without understanding the difference.

Number 1068

REPRESENTATIVE CISSNA inquired as to what would happen if certification wasn't granted.

MR. DeWITT answered that without certification, conversion to a veterans' home can't happen. He explained that the federal veteran home process is being used and the federal government will provide 65 percent of the capital costs. To bring the facility up to Veterans Administration standards would amount to about \$3.5 million. Before that, the Veterans Administration will pay \$26.95 a day for those veterans in the home. Those [funds] wouldn't be available if certification isn't obtained. Mr. DeWitt related that representatives of the Veterans Administration have visited the Palmer Pioneers' Home and the Anchorage Pioneers' Home, shared operation information, and visited the plant. The representatives were very impressed. Mr. DeWitt said, "We're very, very comfortable that it's going to happen, but nobody's signed the line yet." Therefore, it's inappropriate to have a mandate and thus the language change to a permissive tone. In response to Chair Stepovich, Mr. DeWitt said that he was virtually certain that certification would be obtained. He highlighted that one of the differences between this proposal and past proposals is that the Veterans Administration has worked on this and is "on board with this approach" and are supportive of it. Furthermore, with the funding in the fast track supplemental appropriation, this will be on-line much sooner. In fact, [the Veterans Administration] is looking into its budget in order to determine how much of its budget can be certified prior to the fiscal year beginning October 1st.

Number 1254

REPRESENTATIVE WEYHRAUCH asked if the pioneers' home standards are higher than those of the Veterans Administration.

MR. DeWITT said that there are some minor issues, perhaps. He said that all of the standards are being reviewed, and the intent is to continue to run the Palmer Veterans' Home essentially identical to pioneers' homes throughout the system. Mr. DeWitt highlighted that the Alaska veterans' home will be operated within the same system the pioneers' homes are operated now. Often states will run veterans' homes under its department of military and veterans' affairs. However, the department's primary focus isn't operating a veterans' home and thus the

decision has been made to operate Alaska's veterans' home within DHSS and under the same division that operates the pioneers' homes. He related the belief that the state offers a quality of care that's far above what is seen in veterans' homes in other states.

REPRESENTATIVE WEYHRAUCH inquired as to whether there would be a wing for veterans and a wing for nonveterans. He asked if the proposed veterans' home would upset the current demographic scheme of the Palmer Pioneers' Home.

MR. DeWITT said that one would see very little difference in the Palmer Pioneers' Home today and five years from now. There may be a bit more veteran activity than currently. He explained that by converting the home one only has to worry that 75 percent of the residents have to be veterans and 25 percent can fall into the other category. The [veterans'] home will be operated as a home so that the full array of services can be provided. If a wing were converted, it would be problematic because one would have to delineate specific rooms, beds, staff, and activities that could be used for one and not the other. If there was a designated veteran bed and a nonveteran was in need of that bed, that [nonveteran] couldn't use that bed. "The notion of wings precludes reasonable and good operation of the home, both in terms of management and in terms of the services that we would provide to ... the residents in that home," he explained.

Number 1466

REPRESENTATIVE LYNN directed attention to page 3, line 27 through page 4, line 2, and inquired as to why the term "health care facility" excludes the Alaska Pioneers' Home and the Alaska Veterans' Home.

MR. DeWITT pointed out that the first five pages of Version D specify adding the language "or Alaska Veterans' Home". Because the official statutory designation will be changed from a pioneers' home to a veterans' home, it was necessary to add the language "or Alaska Veterans' Home". The aforementioned means that the veterans' home will be managed, operated, and treated under statute as a pioneers' home. He related that the exclusion is because the pioneers' homes are licensed assisted living facilities as opposed to a health care facility. The health care facility definition in AS 18.07.111(8) is with reference to certificate of need, from which it's exempt.

REPRESENTATIVE LYNN surmised then that the veterans' home will only be an assisted living home, not a skilled health care facility.

MR. DeWITT agreed with that understanding, but added that under statute and the operational aspects of pioneers' homes, they offer a wide and intensive range of services, although they aren't licensed skilled nursing facilities.

Number 1600

REPRESENTATIVE LYNN turned attention to page 4 [Section 4], which refers to places where smoking is regulated. He related his understanding that the Alaska Veterans' Home would be a no smoking facility. He noted his belief that smoking is a health hazard at any age.

MR. VOWEL specified that the smoking restrictions would be based on the laws of the community in which the facility is located. In further response to Representative Lynn, Mr. Vowel related that the average age in Alaska's pioneers' homes, including the veterans, is about 84 years old.

REPRESENTATIVE LYNN noted that he is a veteran. He recalled that many veterans acquired the habit of smoking in the military and have smoked for many years. He expressed the need for life to be made as pleasant as possible for these folks, and therefore he said he didn't believe it would be an appropriate time to force a veteran to quit smoking. He asked if it would be possible to create a space for those veterans who choose to continue to smoke.

MR. DeWITT drew attention to page 4, line 8, which says "except as allowed under AS 18.35.310". The aforementioned statute in part says, "a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320". Therefore, although there is a general prohibition against smoking, there is the ability to designate smoking areas. He explained that in the homes the common areas open to everyone are kept smoke free.

Number 1796

REPRESENTATIVE GRUENBERG turned to the definition of "veteran" found on page 12, and inquired as to the possibility of including those serving in the Merchant Marine during times of combat or war time.

MR. DeWITT related his understanding that when the Merchant of Marine is federalized, it comes under the definition of armed forces. However, he offered to check on that with the Veterans Administration. Mr. DeWitt said that the definition in HB 440 was used because it was believed to be consistent with what is allowed under the federal requirements.

REPRESENTATIVE GRUENBERG commented that if the term "armed forces" is a term of art, it isn't necessarily apparent from the state statute. Therefore, he suggested that the language might want to specify the U.S. code in which it is defined.

MR. DeWITT interjected that he would also ensure that the Coast Guard is included because it isn't under the Department of Defense, save times of war.

Number 1901

REPRESENTATIVE DAHLSTROM drew attention to page 6, Section 14, which discusses the longevity bonus program. She asked if the provision is even necessary since the changes to the program.

MR. DeWITT said that the statute referenced in Section 14 is still in statute and relates to pioneers' homes. Therefore, the drafter suggested that the change be made.

Number 1985

MR. DeWITT returned to his presentation. He explained that the State of Alaska has been working on developing a veterans' home for a number of years. As noted earlier, the legislature passed a statute in 1992 that attempted to have a self-supporting stand-alone veterans' home. However, that failed. Around 2002, there was a proposal allowing for a pilot project with the Veterans Administration that would allow the [pioneers' homes] to be designated as providing care for veterans for which reimbursement would be received. The Veterans Administration wasn't interested because it would open up the possibility of providing benefits in any state institution throughout the U.S. Subsequently, Governor Frank Murkowski charged the department with making [an Alaska Veterans' Home] happen. Discussions ensued with the Veterans Administration with regard to what alternatives it could support and Alaska could as well. At the same time there were discussions with regard to having economic strength within the pioneers' home system. Mr. DeWitt informed the committee that the Veterans Administration has a formula that specifies how many beds a state is allowed to have in its

veterans' home, which amounted to 79 beds for Alaska. It so happens that the Palmer Pioneers' Home has 82 beds and the Veterans Administration indicated that it would be willing to provide a waiver and allow the use of the extra three beds. The aforementioned coupled with whether the home could support the type of programmatic issues raised by veterans pointed to the Palmer Pioneers' Home as a good fit. Furthermore, the construction standards were reviewed, and again the Palmer Pioneers' Home was found to be a good candidate. All this led representatives from the Veterans Administration to review the Palmer Pioneers' Home with which they were very impressed.

MR. DeWITT said that the next step was to move toward the process of converting, which includes bringing the issue before the legislature for consideration. Along the way, the legislature commissioned the McDowell Group to perform a study on the pioneers' home system and the potential of a veterans' home. One of the recommendations of that study was the conversion of the Palmer Pioneers' Home to a veterans' home. Therefore, HB 440 was introduced. With Version D, the conversion will be limited to the Palmer Pioneers' Home. He opined that with the additional ability to secure benefits for those veterans entitled to them, it will add additional revenues. Therefore, the entire system would be strengthened. He further opined that the programmatic approach requested by the Veterans Administration is consistent with the geriatric care the pioneers' homes provide. Mr. DeWitt said that he's excited about this.

Number 2212

MR. DeWITT specified that the other matter of importance in this legislation is the ability for folks in the pioneers' home to access Medicaid benefits as well as other types of federal and state benefits. Historically, in order to access Medicaid benefits, the entrance age to the pioneers' homes would have had to be changed from 65 to an open age. The legislature and past administrations that he recalls haven't been willing to do the aforementioned. However, with the enactment of the Older Americans Act there are other ways to access some Medicaid funds, other than the traditional method of accessing it through the certification as a skilled nursing facility or intermediate care facility. Therefore, the entrance age requirement and the geriatric approach to care wouldn't have to be changed. Mr. DeWitt specified that this legislation will allow the state to access those funds while strengthening the fiscal integrity of the pioneers' home system over the long term.

CHAIR STEPOVICH asked if a veteran's per diem would be considered part of the veteran's income in relation to the amount the veteran would pay for his or her care.

MR. DeWITT replied yes. If the individual has no income and the state is fully subsidizing that individual's cost of care, the money, a little over \$800 a month, that individual would receive would go to the home and offset state general funds for that individual. On the other hand, if someone was paying his or her full way, that individual would have control over the \$800 a month.

CHAIR STEPOVICH asked if there will be any requirements with the level of care associated with the per diem payment.

MR. DeWITT clarified that the per diem payment is for domiciliary care. He remarked that [the department] has its own opinion regarding whether the level of care the pioneers' home is providing would be at the level of nursing care. The belief is that the aforementioned is a battle to be fought after certification is obtained.

**TAPE 04-1, SIDE B**

MR. DeWITT explained that the first step should be taken and once that is resolved, the different increments of funding could be addressed. In terms of the level of care, the individual will receive the same quality and level of care that one would find in any pioneers' home in the system. In further response to Chair Stepovich, Mr. DeWitt informed the committee that the pioneers' home system started in 1913 in Sitka.

Number 2310

CHAIR STEPOVICH expressed the need to keep the pioneers' home system in tact. He then inquired as to the impact this change would have on the entire pioneers' home system.

MR. DeWITT opined that the result will be very positive. The opportunity for veterans in the pioneers' home system and those new to it to secure veterans' benefits is a strong step forward. In terms of the individual's finances as well as those of the entire system, it would be positive. Mr. DeWitt highlighted that HB 440 includes transitional language so that no veteran is forced to move into or out of the Palmer Pioneers' Home as a result of the conversion. The Veterans Administration has

indicated that it's "positively disposed to resolving that problem favorably in terms of handling the transition. Therefore, it's a win-win situation.

REPRESENTATIVE LYNN commented that although he preferred a stand-alone veterans' home, this proposal is a good initial step to obtain the goal of a stand-alone home. He mentioned that Alaska and Hawaii are the only two states that don't have veterans' homes. He thanked everyone for his or her work.

Number 2210

REPRESENTATIVE WEYHRAUCH inquired as to the presence of the Veterans Administration in Alaska, in terms of personnel.

MR. VOWEL answered that the Veterans Administration has a central office in Anchorage where there are medical facilities [for veterans]. He characterized the presence in Anchorage as a very large presence.

MR. DeWITT, in response to Representative Weyhrauch, confirmed that the Veterans Administration personnel are federal employees. Mr. DeWitt pointed out that a state veterans' home is not a federal institution rather it's state-owned and -operated, and therefore its employees will be state employees.

Number 2148

REPRESENTATIVE GRUENBERG inquired as to what prevents veterans from other states, which might be experiencing overcrowding, from coming to Alaska.

MR. DeWITT informed the committee that the [department] has the ability to establish entry criteria. For 75 percent of the veterans' home beds the entry criteria will be that the individual meet pioneer home criteria and be a veteran. For the 25 percent of beds that aren't required to be veteran beds, the entry criteria will be pioneer home criteria, which is one year of residency.

REPRESENTATIVE GRUENBERG asked if the aforementioned would conflict with the federal requirements.

MR. DeWITT stated that the [Veterans Administration] is aware of the criteria and it has indicated that it's the state's call.

REPRESENTATIVE GRUENBERG asked if that is in writing. He said he would hate for personnel to change and a position to change with it.

MR. DeWITT remarked that he is comfortable that "Secretary Principi will have his fingerprint on this." The difficulty of obtaining such in writing is the fact that there is an ultimate "sign off" and negotiations occur up to the point of an announcement that "we've got it." He stated that this isn't an issue that's been raised at any level, including the legal counsel level. However, he specified that the intention is to have [the criteria] as part of the final agreement.

Number 2033

REPRESENTATIVE WEYHRAUCH related his understanding that 19 percent of the residents of the Palmer Pioneers' Home are currently veterans.

MR. DeWITT specified that at the end of January, there were 17 veterans in the Palmer Pioneers' Home. He pointed out that there are 22 vacant beds that "we" are working to fill. "But, again, this is an issue of having beds that are appropriate for their level of need," he explained.

REPRESENTATIVE WEYHRAUCH asked if any of the veterans who are residents of the [Palmer Pioneers' Home] meet a criteria of being dishonorably discharged and subject to removal.

MR. DeWITT answered that he wasn't aware of any. Of those [residents] who have shared that they are veterans, none have mentioned being dishonorably discharged. Should such arise, that individual could be moved from the "veterans count" to the "nonveterans count" or if necessary from the veterans' home to a pioneers' home. The system affords the ability to accommodate pioneers' within the system.

MR. DeWITT, in response to Chair Stepovich, informed the committee of the number of veterans in each facility, as follows: Sitka - 13; Fairbanks - 23; Palmer - 17; Anchorage - 33; Ketchikan - 4; and Juneau - 7. Therefore, there was a total of 97 veterans in the system at the end of January. He noted that next week the February report will be available.

Number 1914

REPRESENTATIVE GRUENBERG commented that younger veterans seem to be suffering from debilitating diseases such as Agent Orange. However, the legislation on page 8, line 11, specifies that an individual entering a home must be 65 or older. He asked if there will be any flexibility for those younger veterans who need to be in a home.

MR. DeWITT replied no. Mr. DeWitt agreed with Representative Lynn's earlier statement that this legislation is a good first step. In the pioneers' homes, a quality geriatric program is offered, this is a program that isn't appropriate for younger individuals.

REPRESENTATIVE GRUENBERG expressed the need to address, at the state level, those younger veterans with problems.

CHAIR STEPOVICH agreed that the aforementioned would be an issue, but reminded the committee that it isn't part of HB 440.

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 4:08 p.m.